

REQUEST FOR APPROVAL

To: Howard Levenson
Deputy Director

From: Cara Morgan
Branch Chief

Request Date: April 9, 2015

Decision Subject: Approval of 2007-11 and 2012-13 Jurisdiction Review Findings For The Source Reduction And Recycling Element And Household Hazardous Waste Element And Transformation Claims For: Los Angeles County: Gardena

Action By: May 19, 2015

Summary of Request:

A key component in maintaining the success of AB 939, the Integrated Waste Management Act of 1989, is CalRecycle's role in overseeing how well cities and counties are implementing the diversion programs they each have selected as part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE). This emphasis on program implementation was further codified by SB 1016 (Chapter 343, Statutes of 2008). Public Resources Code (PRC) Section 41825 requires CalRecycle to review each City, County and Regional Agency SRRE and HHWE at least once every four years, and in some cases once every two years. (For ease of writing and reading, staff uses the term "jurisdiction" in the remainder of this item to refer to cities, counties, and Regional Agencies.) The Jurisdiction Review is CalRecycle's independent evaluation of each jurisdiction's progress in implementing its SRRE and HHWE programs and in meeting the AB 939 diversion requirement. Additionally, this is the first formal review for implementation of Mandatory Commercial Recycling (MCR) pursuant to Public Resources Code Section 42649.

As a result of the two and four year Reviews, CalRecycle may find that: 1) a jurisdiction has adequately implemented its diversion programs and has achieved the 50 percent equivalent per-capita disposal requirement; 2) a jurisdiction has made a good faith effort to implement diversion programs, but has not achieved the 50 percent equivalent per-capita disposal requirement; or 3) a jurisdiction has failed to adequately implement its SRRE and the process to consider issuance of a compliance order should commence. Jurisdictions that fail to satisfy the conditions of a subsequent compliance order may be subject to a fine of up to \$10,000 per day.

This Request for Approval addresses the City of Gardena's (City) Jurisdiction Reviews for both 2007-11 and 2012-13. In 2011, Local Assistance and Market Development (LAMMD) staff reviewed the City's programs and found significant gaps in a number of program areas.

As a result of this finding, the City was forwarded to CalRecycle's Jurisdiction and Compliance Unit (JCU) for further investigation. LAMD staff informed the City of its program gaps, that it was to be reviewed independently by JCU, and that the City could avoid a Compliance Order if the program gaps were addressed.

After a thorough JCU compliance investigation, the City has taken action to address the program gaps by implementing new or expanded diversion programs. The City is continuing to address program improvements that have not been fully corrected regarding multifamily and commercial programs. JCU provided its review findings covering the years 2012-13 to LAMD, which are described herein.

The City has also been reminded that as the economy rebounds, businesses will likely produce more, consumers will buy more, and construction could increase resulting in more solid waste generation and disposal. As a result, continuing the City's diversion programs is critical to ensuring continued compliance with AB 939, as well as implementing the requirements of the Mandatory Commercial Recycling and Mandatory Commercial Organics Recycling laws.

Subsequent to approval of this request, staff will continue (as mandated in SB 1016) to visit annually to ensure its programs are being fully implemented and to ensure there are not gaps preventing the jurisdiction from meeting its 50 percent equivalent per capita disposal target. Staff will also provide assistance, as needed.

Recommendation:

Because the City has addressed the diversion program gaps identified by LAMD staff and has committed to continued improvements to program implementation, staff has determined that the City of Gardena has made all reasonable and feasible efforts to implement diversion programs and recommends approval of its compliance with AB 939 requirements for implementation of its SRRE and HHWE programs, as required by Public Resources Code Sections 41780, 41825 and 42649, respectively.

Deputy Director Action:

On the basis of the information and analysis in this Request for Action and the findings set out above, I hereby approve the Jurisdiction Review findings for the City of Gardena.

Dated: _____

Howard Levenson, Deputy Director
Materials Management and Local Assistance Division

Attachments: The attachments to this Request for Approval contain summaries of the information that staff used for the evaluation:

1. a. Jurisdiction Disposal Rate Trend -- provides a summary of each jurisdiction's 50% equivalent per capita disposal target and annual per capita rate.

- b. Diversion Programs Implementation Summary – contains a SRRE and HHWE diversion program listing for each jurisdiction.
2. Transformation Claims -- identifies the transformation claim.

Background Information

A key component in maintaining the success of AB 939, the Integrated Waste Management Act of 1989, is CalRecycle's role in overseeing how well cities and counties are implementing the diversion programs that they each have selected as part of their Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE). Public Resources Code (PRC) Section 41825 specifies that CalRecycle periodically and independently review each jurisdiction's progress in implementing its programs and in meeting the AB 939 diversion requirement and that CalRecycle make a finding of whether each jurisdiction was in compliance with PRC Section 41780 during the review period.

As a result of its review, CalRecycle may find that a jurisdiction:

- 1) Has adequately implemented its diversion programs and has achieved the diversion requirement;
 - 2) Has not achieved the diversion requirement, but has made a good faith effort to implement diversion programs; or,
 - 3) Has failed to adequately implement its SRRE and/or HHWE and the process should commence to consider whether issuance of a compliance order would be appropriate.
- Jurisdictions that fail to satisfy the conditions of a compliance order may be subject to a fine of up to \$10,000 per day.

Senate Bill 1016 (Statutes of 2008, Chapter 343) amended the PRC Sections 41825 and 41850. As a result of this legislation, the 50 percent diversion requirement is now measured in terms of per-capita disposal expressed as pounds per person per day. SB 1016's per capita disposal and goal measurement system also codified how the previous California Integrated Waste Management Board and now CalRecycle utilize the number as an indicator of program performance along with its evaluation of program implementation, instead of using estimated diversion rates or per capita disposal as the determinative factor for compliance.

Staff's analysis of program implementation is based upon the Countywide Integrated Waste Management Plan Enforcement Policy Part II, originally adopted (by CalRecycle's predecessor, the California Integrated Waste Management Board) in August 2001 and revised, pursuant to SB 1016, in June 2010. Staff utilizes the criteria delineated in the Enforcement Policy to determine the extent to which a jurisdiction has implemented, or has shown a good faith effort to implement its selected diversion programs. For those jurisdictions that did not meet their per-capita disposal requirement, staff evaluates their program implementation to determine if they have made a good faith effort to implement the programs selected in their SRRE and HHWE. The scenarios in the Enforcement Policy Part II provide illustrative criteria to serve as examples of the issues that staff utilizes in examining local jurisdiction program implementation.

Analysis work includes reviewing documentation, such as annual reports, hauler data, outreach and education materials, etc. This analysis determines the extent to which a jurisdiction has tried

to meet the diversion requirements through its selected diversion programs. Based upon this comprehensive analysis, staff then proposes one of the three findings listed above. If the LAMD staff recommends a finding that a jurisdiction is not implementing its SRRE and/or HHWE programs, then that jurisdiction is referred to CalRecycle's JCU for a second independent evaluation. If the jurisdiction addresses the program deficiencies during the JCU investigation, then they can be recommended as being in compliance and avoid being placed on a Compliance Order. If warranted, the JCU then submits a separate Request for Approval recommending that the jurisdiction be placed on a Compliance Order.

The City has been placed on two previous compliance orders. Following the determination of the City of Gardena's (City) compliance with IWMA BR99-86 a second Compliance Order, IWMA BR03-02, was issued. This Compliance Order required the submission of a local implementation plan to improve the City's low-performing diversion programs including: evaluating and improving the residential and commercial recycling and green waste diversion programs, implementing construction and demolition debris recycling, school diversion and education, grass-cycling, and implementing a procurement policy. On September 16, 2003, an administrative civil penalty was imposed on the City for its failure to meet the conditions of Compliance Order IWMA BR03-02 in a timely manner and was fined \$70,000 for noncompliance. On January 17, 2007, the City was found to be compliant with Compliance Order IWMA BR03-02.

Findings

CalRecycle's Local Assistance and Market Development (LAMD) staff extensively reviewed the City in the 2007-2011 review cycle by conducting on-site visits to verify program implementation of its SRRE and HHWE programs. As a result of the 2007-11 review, Local Assistance and Market Development (LAMD) staff found significant gaps. As a result of this Finding, LAMD staff informed the City of its program gaps, that it was to be reviewed independently by the Jurisdiction Compliance Unit, and that the City could avoid a Compliance Order if the program gaps were addressed. The City's 2007-11 Review resulted in a referral to CalRecycle's JCU for an independent evaluation for the following reasons:

1. Residential: It was unknown if the rates are structured to provide an incentive for recycling or that education was targeted; as well as, if the City and hauler was monitoring contamination in the residential program.
2. Commercial: It was unknown if the commercial program needs increased targeted education, including waste assessments.
3. Construction and Demolition (C&D): While the City had approved a C&D ordinance, it was not clear if the program was actually being implemented due to lack of data from the hauler.
4. Government: It was unknown if the City was implementing its procurement program.

The JCU review resulted in the resolution of many program gaps which additionally greatly improved the City's diversion efforts. Improvements made include more aggressively conducted educational outreach in all diversion sectors, by both the City and its hauler. JCU relayed its review findings to the City in April 2015, and a follow up meeting with JCU, LAMD, and City staff is being scheduled to discuss the review and determine next steps. The following is an overview of the programs:

Residential:

- The City and hauler have improved the residential program by increasing targeted education and outreach efforts to raise awareness of additional recycle or green waste carts that are available to residents free of charge. This has resulted in increased diversion of materials. Collection is weekly and residents are provided 64-gallon carts for both commingled recyclables and green waste. As presented in the JCU report, contaminated recyclables from the multi-family sector are still being mixed with the residential recyclables, which is having a direct impact on the effectiveness of the City's programs. A number of activities are being implemented to address the gaps in multifamily recycling. A variety of resources are available to multi-family complexes on the City's website and the hauler mails out brochures to multi-family accounts promoting the benefits of recycling. The hauler also offers to conduct on-site waste evaluations aimed at increasing recycling and reducing waste generation. To try and encourage subscribing to recycling services, the hauler offers recycling services for free for the first three months, after which a recycle bin costs half the price of a waste bin. LAMD staff will continue to work with the City and hauler to further explore opportunities to increase the number of multi-family complexes that are recycling such as working with property managers to conduct waste audits and assisting with the proper placement of recycling containers and/or developing a separate multi-family collection route.

Commercial:

- The City and hauler have increased efforts to assess which businesses in the City are recycling either through the hauler or by other means. Over the course of JCU's review, the hauler has been actively conducting waste audits. Through the waste audits the hauler has identified commercial businesses which do not currently subscribe to recycling services. Also, as a result of the waste audits the number of commercial businesses subscribing to recycling services has increased, and there has been increased reporting of diversion through self-hauling. Additionally, the City and hauler have identified a number of businesses whose main waste product is wood (dimensional lumber and saw dust). Based on this a wood waste collection program has been developed. The hauler is in the process of verifying the status of all commercial accounts by letter, phone, email, or site visit. LAMD staff will be reviewing this data and working with the City and hauler to assess the status of the recycling program. Additionally, a variety of resources are available to businesses on the City's website which includes contact information for the franchised hauler, a link to Smartbusiness Recycling, which is a program created by the Los Angeles Department of Public Works. This program provides locations of recycling facilities around a chosen area and offers resources for recycling and waste reduction tips and helps the commercial sector by finding markets for nonhazardous materials that are typically disposed. The hauler is mailing out brochures to commercial accounts promoting the benefits of recycling and the on-site waste evaluations aimed at increasing recycling and reducing waste generation. It is anticipated that through the increased outreach, businesses will be aware of the economic incentive to subscribe to recycling services, e.g., , the hauler offers recycling services for free for the first three months, after which a recycle bins costs half the price of a waste bin.

MCR:

- The City and hauler have expanded the implementation of MCR. In June 2012, the hauler rolled out an AB 341 outreach campaign by mailing an informative brochure to all Gardena businesses and offered free recycling audits. In June 2014, the hauler and the City developed another MCR outreach letter that was again mailed to all commercial accounts, which stated the requirements of the MCR law and included a self-haul certification form. These mailings have resulted in businesses requesting waste audits, leading to increased subscription of recycling services. In addition, the hauler has received approximately 40 self-haul certification forms as of late 2013 which improved the City's monitoring of compliant commercial generators. This has improved the tracking, monitoring, and reporting of commercial generators subject to MCR. The hauler has identified 498 commercial accounts subject to MCR. Of this number, 131 have source-separated recycling, 185 businesses self-haul or use a 3rd party recycler, and 181 businesses still need to be verified by the City to determine if recycling is in place. One business was found to not have recycling place through the on-site audits. In relation to the City's 336 multifamily complexes with 5 or more units, 91 complexes have source-separated recycling, 128 use 3rd party recyclers, and 117 still need to be verified to determine if recycling in place. A notice was sent to the 1 non-compliant business and 298 unverified businesses and multifamily complexes in May 2014 to again inform these covered entities about the law and to provide options for recycling. The City indicates that the efforts to verify recycling efforts and provide on-site assessments to set up recycling will continue until all accounts have been verified. LAMD staff will continue to work with the City and hauler to ensure that these efforts to provide education, outreach, and monitoring continue, and will provide technical assistance to address businesses found not to be in compliance.

C&D:

- The City has adopted a diversion requirement of 50 percent of debris materials that are generated from C&D projects (Municipal Code Section 8.20.060). This code applies to all permitted projects. The City requires preparation and implementation of a C&D Waste Diversion Plan, which includes: targeted materials that will be generated from the project; reporting methodology; employee training; and, a contingency plan in the event that diversion methods are inadequate or infeasible for implementation. Also, a deposit is required to be submitted at the time the permit is applied for. At the planning counter the City staff discusses the requirements for the diversion of C&D debris and directs the permittees to the hauler for C&D debris recycling and disposal. The hauler discusses with the permittee the types of materials that will be generated from projects and how those materials can be recycled. This is done for all projects that require a permit in the City. At the conclusion of the project within 60 days permittees must submit a C&D Waste Diversion Report that includes all weight tickets documenting both disposal and diversion, and, any other information attesting to or verifying the implementation of diversion activities. The deposit is held until the C&D Waste Diversion Report shows a minimum of 50 percent diversion was achieved. If 50 percent diversion is not achieved, the deposit is retained by the City. Retained deposits are used to support development of C&D diversion programs.

Government:

- JCU staff observed recycling opportunities throughout all of the government offices. The City contracts out tree trimming services with West Coast Arborists who provided documentation supporting that tree trimmings are taken to facilities that recycle the green waste material. The City has also implemented source reduction activities, including duplex printing. The City also has a green book with specifications for the requirements to use recycled products in street improvement projects, private developments, and for use in City maintenance crew repairs. Additional information submitted by the City in its 2013 report, though not verified by JCU or LAMD staff, includes a description of the City's environmentally preferred purchase procedures that are written into City Guidelines for all departments. The City makes every effort to purchase recycled content materials where feasible. All printing and writing paper ordered (491 cases) for the Print Shop and Police Department meet the City's requirements for 30% post-consumer recycled content. The City participates in extended producer responsibility programs for printers and ink cartridges. Tracking of recycled content purchases is in place. JCU staff verified documentation of recycled content purchases in 2013.

The review by JCU demonstrates that the City is motivated to improve its diversion programs, which increase the City's divert materials from disposal. To ensure that these programs, as well as all of the City's SRRE and HHWE programs (including mandatory commercial recycling outreach and education), continue to be implemented, LAMD staff will continue to assist the City, as appropriate, and conduct annual programs verification site visits.